



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Agriculture

TITLE-SERIES: 61-08B

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Schedule of Charges for Inspection Services: Fruit

CITE STATUTORY AUTHORITY: §19-2-5, §19-1-4(k)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 05/11/2022 12:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Jodee Martin

ADDRESS: WV Dept. of Agriculture

1900 Kanawha Boulevard, East, Charleston WV 25305

EMAIL: rulescomments@wvda.us

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Establishes charges for Federal-State Inspection Service for Fruit through a Cooperative Agreement with USDA.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Changing the hourly rate for GAP,GHP audits that is established by USDA's Agricultural Marketing Service.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

There will be an impact due to the raising of the fee. The amount of revenue will be determined by the number of audits.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

At this time, we do not know the number of audits to estimate the impact.

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

At this time, we do not know the number of audits to estimate the impact.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2022 Increase/Decrease (use "-")	2023 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

At this time, we do not know the number of audits to estimate the impact.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 61
LEGISLATIVE RULE
STATE DEPARTMENT OF AGRICULTURE

SERIES 8B
SCHEDULE OF CHARGES FOR INSPECTION SERVICES: FRUIT

§61-8B-1. General.

1.1. Scope. -- This legislative Rule establishes charges for Federal-State Inspection Service for Fruit.

1.2. Authority. -- W. Va. Code §19-2-5, §19-1-4(k).

1.3. Filing Date. -- ~~March 21, 2018~~

1.4. Effective Date. -- ~~March 21, 2018~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect ~~March 21, 2023~~ on August 1, ten years after its effective date.

§61-8B-2. Declaration of Policy.

2.1. Fees for Inspection Services. -- W. Va. Code §19-2-5, provides that the Commissioner of Agriculture may, upon request, inspect and issue Federal-State Inspection Certificates, certify the quality, or condition for fruit produced, sold traded, exchanged, transported through the trade channels of West Virginia.

2.2. Schedule of Fees -- For the purpose of defraying the cost of inspection, the following schedule of fees apply:

2.2.1. Fruit Inspection For Processors:

Contract - Weekly Rate 40 hours per week	
Monday through Friday.....	\$640.00
Hourly Rate (1 hour minimum)	\$25.00
Overtime per hour.....	\$37.50

2.2.2. GAP.GHP/Audits:

As required by WVDA's cooperative agreement with USDA, WVDA will charge the hourly rate for GAP.GHP audits that is established by USDA's Agricultural Marketing Service.

Hourly rate (1 hour minimum)	\$108.00
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2.2.3. Fruit Inspection For Quality:

Contract - Weekly Rate 40 hours per week

Monday through Friday	\$500.00
Hourly rate (1 hour minimum)	\$25.00
Overtime per hour	\$37.50
Plus Current Mileage Rate	

2.2.4. Fruit Inspection Package Rate:

Per box, basket, carton 25 lbs or less	\$ 0.08
Per box, basket, carton 26 lbs or more	\$ 0.10
Hourly rate (1 hour minimum)	\$25.00
Overtime per hour	\$37.50

2.2.5. FVQ Form 294 (State Sanitary Inspection)

No charge if performed in conjunction with other inspections otherwise.....	\$ 0.05 per carton
Hourly rate (1 hour minimum)	\$25.00
Overtime per hour	\$37.50
Plus Current Mileage Rate	

2.2.6. Expenses:

The Department may bill all necessary expenses and mileage at the WV Department of Agriculture standard rate.

2.2.7. Overtime:

The Department shall charge at the overtime rate per hour for any time in excess of eight (8) hours any single day (Monday through Friday,) or forty (40) hours any single week, or for Saturday, Sunday and holidays.

2.2.8. Special Work:

The Department shall assess fees for irregular size container or special work on the basis of the fee schedule set forth in this rule as closely as practical.